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OCT 08 2024

AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

Narik Wilson
Reg. No. 33724-050
Hazelton F.C.I.
P.O. Box 5000
Bruceton Mills WV., 26525

In The
United States district Court
For The District Of New Jersey

United States of America,	§	Case No. 24-CV-07864
Plaintiff-Respondent,	§	Crim. No. 13-CR-787
	§	
v.	§	Wilson Submits A Duplicate Form In Compliance With The Court's Order
	§	
Narik Wilson,	§	
<u>Defendant-Movant.</u>		

Narik Wilson ("Wilson"), in want of counsel, has already mailed copies in accordance with the Court's order, but to date according the docket it has not shown up, and Wilson does not want to miss his Court ordered deadline, so he is re-filing a exact copy of what he previously submitted.

Filed this 3rd day of October 2024 under 18 U.S.C. § 1621.

Narik Wilson
Narik Wilson

Narik Wilson
Reg. No. 33724-050
Hazelton F.C.I.
P.O. Box 5000
Bruceston Mills, WV., 25525

In the
United States District Court
for the District of New Jersey

United States of America,	§	Case No. 24-CV-07864
Plaintiff-Respondent,	§	
	§	
v.	§	Wilson Attaches The § 2255
	§	Form And Moves To Reopen
	§	His Memorandum In Support
Narik Wilson,	§	Of Relief
Defendant-Movant.		

Narik Wilson ("Wilson"), in want of of counsel, hereby submits
the basic form under Section 2255, and moves to reopen the Administratively
dismissed memorandum in support of the attached form:

Filed this 28th day of August, 2024, by placing these documents in
internal mail system here at Hazelton F.C.I. Wilson filed this under
28 U.S.C. § 1740


Narik Wilson

**Motion to Vacate, Set Aside, or Correct a Sentence
By a Person in Federal Custody**

(Motion Under 28 U.S.C. § 2255)

Instructions

- 1 To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
- 2 You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
- 3 Make sure the form is typed or neatly written.
- 4 You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
- 5 Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
- 6 If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out an *in forma pauperis* form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
- 7 In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
- 8 When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

☐ Camden: Mitchell H. Cohen U.S. Courthouse 4th & Cooper Streets Camden, NJ 08101
☐ Trenton: Clarkson S. Fisher Fed. Bldg. & U.S. Courthouse 402 East State St. Trenton, NJ 08608
☒ Newark: Martin Luther King Jr. Fed. Bldg. & U.S. Courthouse 50 Walnut St. Newark, NJ 07101
- 9 **CAUTION:** You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
- 10 **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court	District New Jersey
Name (under which you were convicted) Narik Wilson	Docket or Case No 24-CV-07864
Place of Confinement Hazelton F.C.I., P.O. Box 5000, Bruceton Mills, WV., 26525	Prisoner No 63274-050
UNITED STATES OF AMERICA Movant (include name under which you were convicted) <div style="text-align: right;">Narik Wilson</div>	

MOTION

- 1 (a) Name and location of court that entered the judgment of conviction you are challenging
District of New Jersey, 50 Walnut St., Newark, NJ., 07102
- (b) Criminal docket or case number (if you know) **13-CR-787**
- 2 (a) Date of the judgment of conviction (if you know) **Unknown**
- (b) Date of sentencing **June 21, 2017**
- 3 Length of sentence **360-months**
- 4 Nature of crime (all counts) **18 U.S.C. § 1962 (Conspiracy in Racketeering)**
- 5 (a) What was your plea? (Check one)

(1) Not guilty ☐ (2) Guilty ☒ (3) Nolo contendere (no contest) ☐

 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

N/A
- 6 If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

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7 Did you testify at a pretrial hearing, trial, or post trial hearing? Yes ☐ No ☐ **N/A**

8 Did you appeal from the judgment of conviction? Yes ☐ No **XXX**

9 If you did appeal, answer the following

(a) Name of court

(b) Docket or case number (if you know)

(c) Result

(d) Date of result (if you know)

(e) Citation to the case (if you know)

(f) Grounds raised

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No **XXX**

If 'Yes' answer the following

(1) Docket or case number (if you know)

(2) Result

(3) Date of result (if you know)

(4) Citation to the case (if you know)

(5) Grounds raised

10 Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☒ No ☐

11 If your answer to Question 10 was 'Yes,' give the following information

(a) (1) Name of court **New Jersey**

(2) Docket or case number (if you know) **13-CR-787**

(3) Date of filing (if you know) **Unknown**

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(4) Nature of the proceeding **Rule 34, Rule 45 Combination**

(5) Grounds raised

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result **Had it dismissed without prejudice**

(8) Date of result (if you know)

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court

(2) Docket or case number (if you know)

(3) Date of filing (if you know)

(4) Nature of the proceeding

(5) Grounds raised

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result

(8) Date of result (if you know)

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition Yes ☐ No ☐

(2) Second petition Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not.

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Erlinger Constitutionally Mandates The Vacatur of Wilson's 30-years sentence because, as pled exceeds the Maximum

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)

On June 21, 2024 the Supreme Court decided Erlinger v. United States, 2024 U.S. LEXIS 2715 (June 21, 2024). This decision transformed certain statutory factors into elements of the principle conviction. In this case, Wilson pled guilty to 18 U.S.C. § 1962(c), which has a penalty of 20-years unless one of the overt acts to may be charged carries a life sentence. That is, 20-years "or life if the violation is based on a racketeering act for which the maximum penalty includes life." Wilson was charged under § 1962(c), but the indictment or the plea colloquy makes mention of § 1963 which is, after Erlinger a requisite to exceed the otherwise applicable statutory maximum. In other words, after Erlinger in the absence of the indictment or as applied, Wilson specifically admits to a racketeering act and the fact that it includes life the applicable and constitutionally permissible penalty may exceed twenty (20) years. Therefore, based on the retroactive decision in Erlinger this Court did not have the authority to exceed the 20 -years. The sentence must be vacated and Wilson resentenced within his statutory range.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒ XXX

(2) If you did not raise this issue in your direct appeal, explain why. Was not available until Erlinger

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post conviction motion, petition, or application?

Yes ☐ No ☒ XXX

(2) If your answer to Question (c)(1) is "Yes," state

Type of motion or petition

Name and location of the court where the motion or petition was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order, if available)

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes" did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes" state

Name and location of the court where the appeal was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order, if available)

(7) If your answer to Question (c)(4) or Question (c)(5) is "No" explain why you did not appeal or raise this issue

GROUND TWO

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

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(7) If your answer to Question (c)(4) or Question (c)(5) is 'No' explain why you did not appeal or raise this issue

GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state

Type of motion or petition

Name and location of the court where the motion or petition was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order if available)

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state

Name and location of the court where the appeal was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order if available)

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue

GROUND FOUR

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal explain why

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes" state

Type of motion or petition

Name and location of the court where the motion or petition was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order, if available)

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes" state

Name and location of the court where the appeal was filed

Docket or case number (if you know)

Date of the court's decision

Result (attach a copy of the court's opinion or order, if available)

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue

13. Is there any ground in this motion that you have not previously presented in some federal court?

If so, which ground or grounds have not been presented, and state your reasons for not presenting them

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If Yes, state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging

(a) At preliminary hearing

(b) At arraignment and plea

(c) At trial

(d) At sentencing

(e) On appeal

(f) In any post-conviction proceeding

(g) On appeal from any ruling against you in a post-conviction proceeding

16 Were you sentenced on more than one count of an indictment, or on more than one indictment in the same court and at the same time? Yes ☐ No ☒

17 Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future

(b) Give the date the other sentence was imposed

(c) Give the length of the other sentence

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐ **Unknown**

18 TIMELINESS OF MOTION If your judgment of conviction became final over one year ago, you must explain why the one year statute of limitations as contained in 28 U S C § 2255 does not bar your motion *

This motion is filed under § 225(f)(3) in light of Erlinger, which Wilson fully details in his memorandum is retroactive making this motion timely because it is filed within a year of that decision

* The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) as contained in 28 U S C § 2255, paragraph 6, provides in part that

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of

- (1) the date on which the judgment of conviction became final,
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action
- (3) the date on which the right asserted was initially recognized by the Supreme Court if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review, or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence

Therefore movant asks that the Court grant the following relief

or any other relief to which movant may be entitled

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AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

Signature of Attorney (if any)

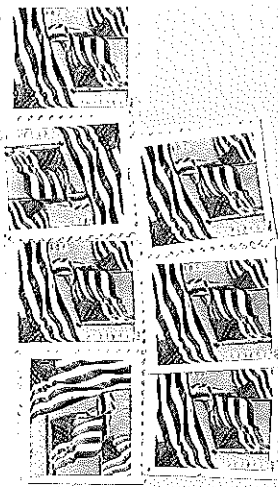
I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on

(month date year) **filed August 28, 2024 under 28 U.S.C. § 1746**

Executed (signed) on 8-28-24 (date)

Narrik Wilson

Signature of Movant
Narrik Wilson



XRAYED



U.S. District of New Jersey
Office of the Clerk
500 Walnut St
Newark, NJ 07102

N. Wilson #63724-0550
FBI Hazelton
PO Box 5000
Brucedon Mills, WV 26035

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